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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DAVID HOUGH; *et al.*

Plaintiffs,

vs.

RYAN CARROLL; *et al.*

Defendants.

Case No.: 2:24-cv-02886-WLH

**ATTORNEY AFFIDAVIT OF NICO
BANKS SUPPORTING
PLAINTIFFS' MOTION TO
COMPEL**

Hearing: August 28, 2024
Presiding Judge: Hon. Wesley L. Hsu
Action Filed: April 9, 2024
Trial Date: N/A

**ATTORNEY AFFIDAVIT OF NICO BANKS SUPPORTING PLAINTIFFS'
MOTION TO COMPEL**

I, Nico Banks, have personal knowledge of the facts set forth below and if called to testify, I would do so competently.

- 1 1. I am an attorney for Plaintiffs in this matter.
- 2 2. On May 16, 2024, Plaintiffs issued subpoenas to Wells Fargo Bank, N.A.; HSBC
3 Bank USA; and J.P. Morgan Chase & Co. requesting: “All documents reflecting
4 action upon assets or accounts held for the benefit of or controlled by, in whole
5 or in part, any individuals or entities listed in Attachment A . . . ‘Documents’
6 includes without limitation: account statements, wire transfer records, checks,
7 correspondence, and account opening documents.”
8
- 9 3. Exhibit A is a true and correct copy of the subpoena Plaintiffs served on Wells
10 Fargo Bank, N.A, excluding Attachment A.
11
- 12 4. Exhibit B is a true and correct copy of the subpoena Plaintiffs served on HSBC
13 Bank USA, excluding Attachment A, along with proof of service.
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- 15 5. Exhibit C is a true and correct copy of the subpoena Plaintiffs served on JP
16 Morgan Chase & Co., excluding attachment A, along with proof of service.
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- 18 6. Exhibit D is a true and correct copy of Attachment A, which was identical for
19 the subpoenas shown in Exhibits A-C.
20
- 21 7. Exhibit E is a true and correct copy of objections that I received from counsel
22 for Wells Fargo via email on May 29, 2024.
23
- 24 8. Exhibit F is a true and correct copy of an email I sent to counsel for Wells
25 Fargo on June 12, 2024.
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1 9. On June 13, 2024, Wells Fargo informed me that it had disengaged its previous
2 attorneys and engaged new attorneys to represent it in connection with this
3 lawsuit.

4
5 10. Exhibit G is a true and correct copy of emails that I exchanged with counsel
6 for Wells Fargo.

7
8 11. On June 17, 2024, I conferred with Wells Fargo's new counsel about the
9 subpoena at issue in this motion. At that conference, Wells Fargo's new
10 counsel reiterated Wells Fargo's position that the subpoenas were invalid
11 because subpoenas cannot be directed to parties to a case. However, Wells
12 Fargo's new counsel stated that they would nonetheless be willing to consider
13 producing documents that Plaintiffs needed to trace the Jurisdictional
14 Defendants' assets. I informed Wells Fargo's new counsel that the necessary
15 documents would likely include account statements, wire transfer statements,
16 and checks, and Wells Fargo's new counsel agreed to consider producing those
17 documents. I asked Wells Fargo's new counsel to finalize its position by June
18 15, and they said they would do their best to meet that deadline.

19
20
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22 12. On June 25, 2024, I had a call with Wells Fargo's counsel in which they
23 confirmed that they could produce account statements, but Wells Fargo had not
24 yet decided whether it would produce other documents. Plaintiffs requested
25 that Wells Fargo finalize its position prior to June 28, 2024. Wells Fargo's
26 counsel stated that they would probably do so.
27
28

1 13. On June 28, 2024, Wells Fargo's counsel informed Plaintiffs that they were
2 still working with Wells Fargo's subpoena department to determine whether
3 they could produce wire confirmations.

4
5 14. On June 29, 2024, Plaintiffs informed Wells Fargo via email that Plaintiffs
6 would also need Wells Fargo to produce relevant transaction data for third-party
7 agents over which Wells Fargo had supervisory responsibility.

8
9 15. Exhibit H is a true and correct copy of emails that I exchanged with counsel
10 for Wells Fargo between July 2, 2024 and July 3, 2024. Wells Fargo did not
11 respond to the most recent email on this email thread.

12
13 16. Exhibit I is a true and correct copy of emails that I exchanged with the
14 "Corporation Trust Company," the process agent for HSBC USA, between
15 June 4 and June 5, 2024.

16
17 17. On July 3, 2024, I sent the Corporation Trust Company's Washington, DC
18 office a copy of the HSBC subpoena and a letter warning HSBC that I would
19 shortly file a motion to compel if HSBC did not respond to the subpoena. I still
20 have not heard from HSBC.

21
22 18. On or around June 5, 2024, JP Morgan Chase & Co. left me a voicemail stating
23 that it would not comply with the subpoena I had served on it unless I
24 addressed the subpoena to JP Morgan Chase Bank, N.A. or JP Morgan
25 Securities, LLC.
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1 19. On or around June 6, 2024, I left JP Morgan Chase & Co. a voicemail
2 explaining that I could not agree to re-issue the subpoena to one of the entities
3 it suggested.

4
5 20. On or around June 6, 2024, JP Morgan Chase & Co. sent me a letter stating
6 that it would close the case file unless I re-issued the subpoena to one of the
7 two entities it had suggested.

8
9 21. On July 3, 2024, I sent JP Morgan Chase & Co. a letter noting that it still had
10 not complied with the subpoena and requesting that it contact me. In response,
11 JP Morgan sent me another letter again noting that it would not comply with
12 the subpoena unless I re-issued it to one of the two entities it had suggested.

13
14 22. I do not know which of JP Morgan Chase & Co.'s subsidiaries custodies the
15 documents requested in the subpoena.

16
17 23. On June 27, 2024, I sent Wells Fargo's counsel an email stating, in part, "We'd
18 be willing to stipulate to having Wells Fargo appear at this hearing and argue
19 its objections — and submit a brief in support of the motion to quash by the
20 reply deadline set by the court — if you're okay with that. I don't think it
21 makes sense to have two separate hearings regarding the breadth of this
22 subpoena, and we want to resolve this issue as soon as possible." I called Wells
23 Fargo the next day and made the same request.

24
25
26 I declare under penalty of perjury that the foregoing is true and correct.

27 Dated: July 16, 2024
28

/S/ Nico Banks

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